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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,190	12/22/2000	Sascha Baumeister	DE919990097US1	1332

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EXAMINER

EL CHANTI, HUSSEIN A

ART UNIT PAPER NUMBER

2157

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/746,190

Applicant(s)

BAUMEISTER ET AL.

Examiner

Hussein A El-chanti

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12/15/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 31-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This action is responsive to RCE received on Dec. 15, 2004. Claims 1-30 were canceled. Claims 31-60 were newly added. Claims 31-60 are pending examination.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 32-60 are rejected under 35 U.S.C. 102(e) as being anticipated by Vahalia et al., U.S. Patent No. 5,933,603 (referred to hereafter as Vahalia).

Vahalia teaches the invention explicitly as claimed including a system and method applying an admission control policy to client requests and assigning stream servers to service the client requests (see abstract).

As to claims 31, 40, 46, 47, 50, 53, 54, 57 and 60, Vahalia teaches a method, system and program respectively for transferring remote files from a remote server to a local client, the method comprising the steps of:

receiving at the local client a portion request from a local portion requester to retrieve a portion of a remote file from the remote server to a local file at the client server, the remote file having one or more first portions preceding a second portion, the portion request comprising information specifying the second portion of the remote file

(see col. 2 lines 48-col. 3 lines 15, the user selects a media file where the user's requests includes a specified portion by the user);

determining the status of portions received from the remote file (see col. 23 lines 1-18, the server determines if the specified portion is fetched on the media server or not);

responsive to the portion request, when the status of the portions received indicates that the second portion has not been received at the local file and when one of the one or more first portions has not yet been received from the remote file, initiating from the local client the retrieval of the second portion of the remote file to the local file (see col. 23 lines 1-18, if the specified portion is not fetched on the server the portion is located at a different server and streamed to the requesting user); and

when the second portion has been received at a second portion of the local file, making the second portion of the local file available to the portion requester (see col. 23 lines 1-18, the selected portion is streamed to the user).

As to claims 32, 42, 48, 51, 55 and 59, Vahalia teaches the method, system and program according to claims 31, 40, 47, 50, 54 and 57 respectively comprising the further steps of: receiving a file request at the local server from a local file requester to download all portions of the remote file to the local file (see col. 23 lines 1-45);

responsive to the received file request, initiating the retrieval of all portions of the remote file to the local file; responsive to the initiating the retrieval (see col. 23 lines 1-45),

retrieving all portions of the remote file to the local file; and making the portions retrieved at the local file available to the file requester (see col. 23 lines 1-45).

As to claims 33, 45, 49, 52, 56, Vahalia teaches the method, system and program according to claims 32, 40, 47, 50, 54 and 57 respectively wherein the retrieval performed in response to the initiating the retrieval of all portions of the remote file skips portions already retrieved (see col. 23 lines 1-45, user can fast forward the streamed video).

As to claims 34, 43, Vahalia teaches the method according to claims 31 and 40 respectively comprising the further steps of: when the second portion has been received at the local file, continuing the retrieval of the remote file, the retrieval continuing at the location of the remote file following the end of the second portion (see col. 23 lines 1-45).

As to claims 35, 44, Vahalia teaches the method according to claims 31 and 40 respectively comprising the further steps of: when portions of the remote file have been received at the local file, retrieving not received portions of the remote file at the local file; and when all portions of the remote file has been received at the local file, making all portions of the local file available to the file requester (see col. 23 lines 1-45).

As to claim 36, Vahalia teaches the method according to claim 31 comprising the further step of creating the local file at a local client computer system (see col. 23 lines 1-45).

As to claim 37, Vahalia teaches the method according to claim 36 wherein the local file created is portion addressable such that a downloaded portion can be directly accessed within the local file by a local client application (see col. 23 lines 1-45).

As to claim 38, Vahalia teaches the method according to claim 31 wherein the requester is an application program of a local client computer system (see col. 23 lines 1-45).

As to claim 39, Vahalia teaches the method according to claim 31 wherein the remote file comprises any one of binary data, text data, video data or audio data (see col. 23 lines 1-45).

As to claims 41 and 58, Vahalia teaches the method and program according to claims 40 and 57 respectively comprising the further steps of: a local server future file application at the local server retrieving a data file data from a file system; the remote server future file application saving the data file retrieved in the local file, the local file comprising portion addressable access to the portions of the local file for sending portions from the local file to the remote file (see col. 23 lines 1-45).

### ***Response to Arguments***

3. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hussein A El-chanti whose telephone number is (571)272-3999. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571)272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hussein El-chanti

March 8, 2005

  
SALEH NAJJAR  
PRIMARY EXAMINER